

ATTACHMENT A -- MAPPING claims

ORIGINAL CLAIMS by Gene Scott

Claims 1-9 reinstated by office action dated 4/3/07

At the end of April 2007, the Supreme Court ruling on the KSR Intl. Co. v. Teleflex Inc. appeal rendered a decision that will enhance patent quality by ensuring that patents are not issued on combinations that are “obvious”. In its ruling, the court cautioned against granting patents for a combination that only unites old elements WITH NO CHANGE IN THEIR RESPECTIVE FUNCTIONS... where the patent does not really contribute to the state of the art. HERE the applicant’s invention allows NEW FUNCTION to the combination of two old elements, a bottle and a snack package, with a NEW third element of an ENVELOPE to ALLOW A NEW RESULT – the raising of the price point of the combination as vended from a machine.

The question is not whether the combination was obvious to the patentee, but whether the combination was obvious to a person with ordinary skill in the art. Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.

Claim 1 = (supported by Figures 1 through 4)

Combination of a (A) Drink Bottle 10 (ORIGINAL specification page 7 lines 19-21)

Having a cylindrical bottle wall 12

Joined axially with a diminishing diameter bottle neck 14

The bottle neck terminating in a removable bottle cap 16

(B) Snack package 20 (ORIGINAL specification page 7 lines 19-25)

Containing a snack food (and thereafter sealed such as commercially available snacks sold in stores and in vending machines such as peanuts, chips, trail mix, etc.)
Snack package adapted (by its flexibility – as stated in ORIGINAL specification lines 22-25) for being wrapped around (or over) the bottle neck for intimate abutment therewith, and

(C) ENVELOPE 30 (ORIGINAL specification page 7 lines 25-29 and page 8 lines 1-7)

Having a cylindrical envelope wall 32 terminating with an aperture 34 at one end thereof (preferably of a rigid and transparent molded plastic sheet).

The aperture 34 adapted for accepting the bottle neck 14 and positioning an inner surface 38 of the envelope wall 32 intimately against the bottle wall 12 for securement therewith

The envelope 30 further enabled BY ITS SIZE AND SHAPE (emphasis added) (from specification page 8, line 1) for pressing the snack package 20 against the bottle neck 14 (the envelope 30 and snack package 20 may be identical - as stated in specification page 7, line 17, however first the separate snack package 20 and envelope 30 will be described)

The envelope 30 extending diametrically from the bottle wall 12 no more than by the thickness of the envelope wall 32 as “this inventively enables the shack envelope 30 to be married to the drink bottle without taking up significantly additional space, over that used by the drink bottle 10 alone, in a packing container, on a store shelf, or in a vending machine. Importantly, the present invention is able to be placed wherever a standard bottle alone will fit.” (from specification page 8, lines 3-7)

Specification introduces the concept of a “Standard Bottle” so whatever bottle is used by the manufacturer of a beverage drink as a standard bottle – most bottles are fabricated with a cylindrical base with diminishing diameter upper region axially extending from the cylindrical base and having a cap to contain the beverage within the bottle. This invention takes OFF THE SHELF standard bottle 10 and OFF THE SHELF SNACK PACKAGE 20 and securely joins them with an envelope 30 to secure the snack package 20 to the bottle 10 so that the combination can be placed in the same space opening (pigeon hole), especially in a vending machine, as the bottle 10 alone occupied. THE APPLICATION USES “STANDARD PARTS – BOTTLE, SNACK PACKAGE but with a NEW element – the ENVELOPE to produce a NEW RESULT. The price for opening the vending space containing the combination can now be raised as value has been added to the existing vending space without having to modify the vending space or the machine having the vending space(s) within. **This is the inventive step of this application as required by KSR when using a combination of “old” elements.** The ENVELOPE is a new element as it is not disclosed in any of the prior art cited by the examiner. The limitations on the “envelope” as set forth in the specification are that the overall diameter of the combination of the bottle 10, snack package 20 and envelope 30 do not exceed the existing space of the vending machine so that the combination may be placed in the space previously occupied by the bottle alone requiring the diameter of the combination to be “essentially” SUBSTANTIALLY the same as the bottle 10 alone and the length of the combination being “essentially” SUBSTANTIALLY the same as the bottle 10 alone (avoiding any jamming of the combination of bottle and snack while it is vended from the existing space – through the channel from the storage space to the space where the purchaser plucks the chosen combination from the vending machine upon payment of the set price. Thus one familiar with the art of the vending machine can easily understand the limitations and desires for performance of the combination of the BOTTLE 10 (whatever bottle is used) and the SNACK PACKAGE 20 (whatever shack package is used be it off the shelf or specially manufactured) both held together by the NEW AND INVENTIVE item of an ENVELOPE 30 and placed into an existing space of an existing vending machine (eliminating the requirement to specially manufacture a vending machine for this combination product or specially manufacture a snack product to exercise the teaching of this invention).

THIS inventive concept is not disclosed or even suggested by any of the prior art. The examiner believes that the combination described by Barton could be used in a vending machine. A vending machine is not suggested by Barton. Further, Applicant’ attorney respectfully traverses the examiner’s belief BECAUSE should a vender attempt to utilize the Barton device in a machine, the loading of the “papoose-like” container

simply hinging from the bottle” (See Barton page 4, lines 45-47) would crush the baby (papoose) or the baby may stick out a foot and hang mom in the machine during the decent. Or possibly baby would become dislodged, hit the tray first and then be splattered by mom as she finally hit the tray, all unappetizing results.

Nothing in Barton teaches restraining baby to mom as the Barton is merely suspended. The purpose of Barton is stated to provide a premium or sample packet of a particular product which is TO BE COMMERCIALY PROMOTED concurrent with the retail sale to a customer of the product contained in the bottle B. (See Barton Page 4, lines 48-52). Nothing in Barton suggests adding value to the product so that the price point may be increased which is required by the Court in KSR.

Barton is similar to the patent teaching the hanging of an advertising circular around a bottle except the hanger is waterproof. So if Barton is inventive even though it uses similar technology but adds a limitation of being waterproof, then the present application should be found inventive as it limits Barton by strapping baby to mom so as to avoid child services from confiscating the child to prevent child abuse.

Barton is without limitation as to size. Therefore use of the Barton device in an off-the-shelf transaction may result in the papoose pushing or dragging mom OFF the shelf (parent abuse).

Claim 2. (supported by Figures 1 and 2)

The combination of claim 1 wherein the envelope (30) further comprises an annular cap sheath extending therewithin, the cap sheath (35) (shown in Fig. 2, being adapted by its internal diameter and by its shape and surface coefficient of friction, Original specification, page 8, lines 8-11) for frictional engagement with the bottle cap for securing the envelope to the drink bottle.

Thus the term “adapted” is well supported by the limitations stated in the specification to fabricate the cap sheath (35) to have an internal diameter and a surface coefficient of friction to be removably engagable with the bottle cap (16). Applicant’s attorney respectfully traverses the original examiner’s (Mr. MAI’s belief that the terms “adapted” and “enable” do not positively recite the claimed invention).

Claim 3. (supported by Figure 3)

The combination of claim 1 further providing an adhesive layer (40) positioned for joining the inner surface of the envelope (30) to the cylindrical bottle wall (12) for sealing the envelope (30). (Original specification page 8, lines 13-16).

Claim 4. (supported by Figure 5)

The combination of claim 1 further providing an adhesive strip (42) positioned for joining the envelope wall to the cylindrical bottle wall for sealing the envelope. (Original specification, page 8, lines 16-20).

Claim 5. (supported by Figure 7)

The combination of claim 1 wherein the envelope (50) wall is spirally scored (39) so as to enable peeling the envelope away from the drink bottle (10). (Original specification, page 8, lines 20-23, and page 9, lines 15-17).

Claim 6. (supported by Figures 7 and 8)

A combination (ITEM 1) drink bottle, (ITEM 2) snack package and (ITEM 3) envelope, the combination comprising:

a drink bottle (10) providing a cylindrical bottle wall joined axially with a diminished diameter bottle neck (14), the bottle neck terminating at a removable bottle cap (16);

a sealed snack package (20) containing a snack food, the snack package adapted for being wrapped over the bottle neck of the drink bottle for intimate abutment therewith; and (here it is clear that an OFF-THE –SHELF snack package such as a bag of peanuts cannot simply be slapped onto the bottle neck or cap but must be manipulated (poked and prodded) into a shape (in other words ADAPTED TO THE SHAPE OF THE BOTTLE)

(THE NEW ELEMENT) an envelope (50) having a cylindrical envelope wall (ORIGINAL specification, page 8, lines 25-29 and page 9, lines 1-8) (This envelope is different from envelope 30, in claim 1 in that it is designed for receiving the snack food 22 (Original specification, page 9, lines 1-2, the snack package 20 and envelope 30 are identical, (Original specification, page 7, line 17) terminating with an aperture at one end thereof, the aperture adapted for accepting the bottle neck and for positioning an inner surface of the envelope wall intimately against the bottle wall for securement therewith, the envelope further enabled (in other words, of a size and shape to NOT FALL OFF) for pressing the snack package against the bottle neck, the envelope wall extending diametrically from the bottle wall no more than by the thickness of the envelope wall so as to allow the combination to fit back into the vending machine.

Claim 7. (supported by Figures 2 and 7)

The combination of claim 6 further providing an adhesive layer (40) positioned for joining the inner surface of the envelope to the cylindrical bottle wall (12) for sealing the envelope. (Original specification, page 8, lines 14-15).

Claim 8. (supported by Figures 5 and 7)

The combination of claim 6 further providing an adhesive strip (42) positioned for joining the envelope wall to the cylindrical bottle wall (14) for sealing the envelope (Original specification, page 8, lines 17-23)

Claim 9. (supported by Figures 6 and 7)

The combination of claim 6 wherein the envelope wall is spirally scored (39) so as to enable peeling the envelope away from the drink bottle (10) (Original specification, page 8, lines 20-23).